IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF TEXAS SHERMAN DIVISION

BLAKE DWYER	§	
	§	
	§	
	§	
Plaintiff,	§	
	§	
VS.	§	
	§	
KEVIN TYSON, A POLICE OFFICER	§	Case No. 4:09-CV-00198-MHS
FOR THE CITY OF CORINTH, TEXAS	§	
	§	
	§	
	§	
Defendant	§	

PLAINTIFF'S MOTION FOR NEW TRIAL

BLAKE DWYER, Plaintiff, proceeding pursuant to Rule 59 of the Federal Rules of Civil Procedure, moves the Court to set aside the judgment signed on the 18th day of October 2010, and to set this case down for a new trial, and in support of such *Motion* respectfully shows the Court the following:

- 1. The verdict is against the weight of the evidence.
- The verdict is so against the great weight and preponderance of the evidence as to be manifestly unjust.
- Under the pleadings and all of the evidence in the case the verdict should have been in favor of the Plaintiff.
- 4. The verdict is contrary to law.
- 5. As a matter of law, the uncontradicted evidence that Defendant discharged the taser fifteen (15) times and left at least eleven (11) sets of burn marks on Plaintiff's body

when the Plaintiff was completely disoriented and unable to understand Defendant's commands, and presented no threat of serious bodily injury to Defendant or any other party or person demonstrates that Defendant used excessive force, and the Jury's answer to the contrary should be disregarded and a new trial granted.

6. In the interest of justice the Court should exercise its authority to grant a new trial for any lawful reason.

Respectfully submitted,

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/s:/ROCKY HAIRE

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Texas SBN: 00795402 JUSTIN J. STEINBOCK Texas SBN: 24051383

ATTORNEYS FOR PLAINTIFFS

CERTIFICATE OF SERVICE

A true and correct copy of the above and foregoing document has been forwarded pursuant to Federal Rules of Civil Procedure on this 25 day of October 2010 to the following:

Sent via facsimile (214) 253-2626 and email

Mr. Casey Erick, Esquire Mr. William W. Krueger, III, Esquire McKAMIE KRUEGER, LLP 2007 North Collins Boulevard, Suite 501 Richardson, Texas 75080 Attorney for Defendant KEVIN TYSON

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